



New Jersey Department of Children and Families Policy Manual

Manual:	NJAC	NJ Administrative Code Excerpts	Effective Date:
Title	10	Human Services	
Chapter	120A	Dispute Resolution	12/9/2008
Subchapter:	4	Administrative Hearings	
Section	2	Motion for Summary Disposition (N.J.A.C. 10:120A-4.2)	

§10:120A-4.2 Motion for Summary Disposition

(a) When the Administrative Hearings Unit determines that an appellant is ineligible for an administrative hearing because of the absence of material disputed facts, the Administrative Hearings Unit recommends to the Director of Legal Affairs or designee that the matter is appropriate for a Motion for Summary Disposition.

(b) The Director of Legal Affairs or designee, in consultation with a representative of the Attorney General's Office, shall determine whether to proceed with a Motion for Summary Disposition, based on whether or not there are material facts in dispute.

1. When the Director of Legal Affairs or designee and the representative of the Attorney General's Office determine to proceed with a Motion for Summary Disposition because no material facts are in dispute, the case shall be transmitted to the Attorney General's Office for assignment for preparation of the Motion for Summary Disposition.

2. When the Director of Legal Affairs or designee and the representative of the Attorney General's Office determine not to proceed with a Motion for Summary Disposition, because material facts are in dispute, the matter shall be transmitted to the OAL in accordance with N.J.A.C. 10:120A-4.3.

(c) The assigned representative of the Attorney General's Office transmits the completed Motion for Summary Disposition to the Commissioner or designee, and, in accordance with N.J.A.C. 1:1-12.2, to the appellant.

1. The appellant shall have 10 days to file exceptions with the Commissioner or designee.

(d) If, after reviewing all materials and any exceptions filed by the appellant and responses by the Attorney General's Office pursuant to N.J.A.C. 1:1-18.4(d), the Commissioner or designee determines that no material facts are in dispute, the Commissioner or designee shall sign an order denying the appellant's

request for an administrative hearing. The Commissioner or designee shall then determine whether the Division action resulting from the undisputed facts is proper based on applicable law, regulations and policies. The Commissioner or designee shall affirm, reverse, or deny the Division action and issue a final agency decision accordingly.

1. The appellant may appeal the final agency decision in accordance with N.J.A.C. 10:120A-2.8.

(e) If, after reviewing all materials and any exceptions filed by the appellant and responses by the Attorney General's Office pursuant to N.J.A.C. 1:1-18.4(d), the Commissioner or designee determines that material facts are in dispute, the Commissioner or designee shall sign an order denying the Motion for Summary Disposition and granting the request for an administrative hearing.

1. The Administrative Hearings Unit shall transmit the matter to the Office of Administrative Law in accordance with N.J.A.C. 10:120A-4.3.

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